

A

SUPPLEMENT

TO

**The Corporation Trust Company  
Journal**

---

APRIL, 1910

**Comparison of the New and Former  
Mining Laws of Mexico**

BY

FREDERIC R. KELLOGG

---

ISSUED BY

**The Corporation Trust Company**

37 WALL STREET, NEW YORK

135 ADAMS STREET, CHICAGO

711 TREMONT BUILDING, BOSTON

LAND TITLE BLDG., PHILADELPHIA

THIRD NAT'L BANK BLDG., ST. LOUIS

# Comparison of the New and Former Mining Laws of Mexico.

BY

FREDERIC R. KELLOGG, of the New York Bar.

While the mining law of Mexico of the 25th of November, 1909, is not a radical measure, it does, nevertheless, embody a number of changes which are of much importance to lawyers and investors interested in Mexican affairs.

It is my intention to briefly note such of these points as are of principal importance.

I. The substances which belong to the public domain are now defined as being:

"All inorganic substances which, in veins or masses of whatever form, constitute deposits whose composition is distinct from that of the native rock, such as those of gold, platinum, silver, copper, iron, cobalt, nickel, manganese, lead, mercury, tin, chromium, antimony, zinc and bismuth; those of sulphur, arsenic and tellurium; those of rocksalt and precious stones. Also placers of gold and platinum."

It will be observed that this clause is much more sweeping and general than the provision of Article 3 of the old law which simply defines certain specific substances without any general words.

II. A most important modification is that which applies to mining property wherever located, the provisions of the laws of the Federal District, relative to ordinary property, except as otherwise provided in the new law.

Formerly, except in a few particulars, mining property and mining rights were governed by the laws of the respective states in which the property was located, causing much confusion in some instances and making it necessary for mining men to become acquainted with several different systems of jurisprudence in all matters relative to mortgages, etc. This is now done away with, all such matters being governed by one system of law. The policy adopted is the same wise one which had previously dictated the adoption of the Code of Commerce by which corporation and commercial matters are considered as being of national and not of state concern.

III. Another very important point is found in the clauses which bring under the operation of the national Code of Commerce all contracts which relate to mining properties and mining rights. All such contracts may now be recorded in the various commercial registries in the states and territories of the nation and when thus recorded they are made valid against third persons during such time as such contracts fix, not exceeding two years from the date of registration.

Formerly, in view of the fact that escrow deeds are not recognized in Mexican law, it was a matter of difficulty to obtain a valid "bond and lease" upon Mexican mining properties which would be valid against a trustee in bankruptcy of the grantor or against his successors or assigns; and the new law has certainly performed a great service to intending mining investors by permitting notarial documents, containing options, to be recorded and to thus gain validity against the whole world during the time above mentioned.

IV. Certain mining contracts are likewise made less dangerous by the provision that they shall not be rescindable for what is known as "lesion."

Under the former law of the Federal District and of certain other jurisdictions of Mexico a "lesion" was said to exist when a purchaser subsequently discovered that he had been induced to give two times more than the just price or value of the property or when the grantor found that he had received two-thirds less than said just price or value.

This provision, a relic of ancient law wholly inappropriate to modern conditions, and the source of great danger especially in mining grants, has been wisely abrogated.

V. The Federal courts of the Republic are expressly given jurisdiction over certain matters, and it is also expressly provided that in other matters which still remain in the control of the state courts decisions must be rendered in conformity with the provisions of the Code of Commerce of the nation, thus abolishing the divergencies resulting from the application of the varying laws of the different states.

This is likewise in the interest of harmony and simplicity.

VI. Under the old law exploration of national lands was permitted at the free will of any resident of the Republic without

9  
previous permission given by any authority. This has now been changed and permission of the local mineral agent is required. He cannot, however, refuse such permission without just reason.

VII. No foreigner, whether an individual or a corporation, may now explore national lands or denounce or hold title to mining property within a zone of eighty kilometres along any line of division between the Republic and foreign countries without obtaining the special permission of the executive of the nation. This embodies with certain changes principles previously established by former laws.

It does not, however, apply to property located within eighty kilometres of the ocean or the gulf of Mexico.

VIII. Another important change is found in the creation of a new easement in favor of mining property and over adjacent property with reference to the transmission of electric power.

This easement permits the installation of subterranean or of overhead lines from the point where the electricity is produced to the mining property in which it is to be utilized, crossing intermediate tracts. It permits passage, not merely for construction and repair of such lines, but also for their protection.

No such provision was found in the old law, which, however, recognized easements of passage, of transmission of water, of drainage and of ventilation.

IX. The right of eminent domain which was formerly recognized by the old law is also amplified, permitting the construction of private railroads for the facilitation of operations; and the method of exercising the right of expropriation in all cases is provided in detail.

X. A clear and full statement as to denouncements and the method of obtaining titles to property denounced is included in the law, which in this respect is a great improvement on the former statute.

It is impossible to allude here to the less important modifications which have been made. In general it may be said that the mining law of Mexico, as the result of this revision, is a well considered and carefully drawn statute which has clarified and simplified the entire subject and opened the way to a safer and wider development of the mineral wealth of the Republic both by native and by foreign capital.

